

§ 0.735-40 Effect of employee's statement.

The statements of employment and financial interests and supplementary statements required under this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, the Executive order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or the other person's participation is prohibited by law, the Executive order, or the regulations in this part.

§ 0.735-41 Specific provisions for special Government employees.

(a) Except as provided in paragraph (b) of this section, each special Government employee shall submit a statement of employment and financial interests on USDA Form AD-392A which reports:

- (1) All other employment; and
- (2) The financial interests of the special Government employee which relate either directly or indirectly to the duties and responsibilities of the special Government employee with the Department.

(b) An Agency Head may waive the requirements in paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or expert when the Agency Head finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual but do not include:

- (1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or
 - (2) A veterinarian whose services are procured to provide care and service to animals.
- (c) A statement of employment and financial interests required to be sub-

mitted under this section shall be submitted to the Head of the Agency in which the special Government employee is to serve not later than the time of employment. Each special Government employee shall keep his or her statement of employment and financial interests current throughout his or her employment with the Department by the submission of supplementary statements.

§ 0.735-42 Review of statements and determination of conflicting interests.

(a) The Assistant Secretary for Administration is responsible for assuring that all personnel required to file are properly identified, all statements are submitted timely and that Agency Heads identify review officials who possess the knowledge and experience to be able to properly evaluate the listed interest. This pertains to filings under both Executive Order 11222 and the Surface Mining Control and Reclamation Act of 1977. All Agencies shall report to the Assistant Secretary for Administration by May 30 each year the number of statements submitted, the number that have been closed favorably and the number that have not been closed. In the latter instance, the Assistant Secretary for Administration shall be advised the reasons for the cases remaining open and shall be advised on a monthly basis of the status of all open cases.

(b)(1) The Director of Personnel is responsible for the review of, and determination on, those statements submitted directly to him or her pursuant to § 0.735-34(b).

(2) Agency Heads will be responsible for annually identifying employees required to file employment and financial statements, for collecting and initially reviewing the statements, for identifying and designating those employment and financial interests that are not in conflict, and for signing and dating the statements.

(c) Agency Heads are responsible for the review of, and determination on, those statements submitted to an Agency official. Original and supplementary statements shall be reviewed and determinations made within 2 months of receipt of such statements.